

BEFORE THE BOARD OF VETERINARY MEDICINE  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of ARM 24.225.301 definitions and ) ON PROPOSED AMENDMENT  
ARM 24.225.507 out-of-state licensure ) AND ADOPTION  
endorsement and the proposed adoption of )  
NEW RULE I occasional case exemption )  
and NEW RULE II fee abatement )

TO: All Concerned Persons

1. On February 8, 2006, at 2:00 p.m., a public hearing will be held in room 489, of the Park Avenue Building, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Veterinary Medicine (Board) no later than 5:00 p.m., on February 3, 2006, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrvvet@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.225.301 DEFINITIONS (1) and (2) remain the same.  
(3) "Occasional case" shall mean no more than two cases per year.  
(3) through (5) remain the same but are renumbered (4) through (6).

AUTH: 37-1-131, 37-18-202, MCA  
IMP: 37-18-102, 37-18-104, MCA

REASON: It is reasonable and necessary for the Board to maintain all definitions used within the rules in a single location. Adding the definition of "occasional case" will lessen confusion and clarify the meaning of the term as used in New Rule I. Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

24.225.507 LICENSURE ENDORSEMENT OF OUT-OF-STATE APPLICANTS (1) through (1)(b) remain the same.  
(c) The candidate holds a valid and unrestricted license to practice veterinary medicine in another state or jurisdiction, and has been ~~continuously~~ actively in

practice for ~~four~~ three of the five years immediately preceding the date of application to Montana. Official written verification of such licensure status must be received by the board directly from the other states or jurisdictions.

(d) The candidate's license to practice veterinary medicine has had no disciplinary sanction during the last ~~four~~ five years of licensure and no license suspension or license revocation at any time.

(e) through (g) remain the same.

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-304, MCA

REASON: Recently, several out-of-state applicants for licensure have not been able to meet the requirement of four years of continuous practice for various reasons, including medical and personal reasons. The Board requires the continuous practice to assure continued competence in the practice of veterinary medicine. The Board desires to maintain some flexibility in verifying continued competence for applicants coming from other states who are not beginning practitioners. It is reasonable and necessary for the Board to amend the rule to require active practice in three of the five years preceding Montana application. The Board determined that due to constantly changing technology associated with the practice of veterinary medicine, if an applicant cannot establish continued competency specified in the amended rule, the applicant must then retake the national licensing examination.

4. The proposed new rules provide as follows:

NEW RULE I OCCASIONAL CASE EXEMPTION (1) The board, in its discretion, may grant an exemption to a veterinarian not licensed in Montana who renders veterinary services in this state, provided that the veterinarian:

(a) submits a written request to the board, describing the date, place, and the scope of practice and/or the procedures to be performed prior to such service;

(b) submits proof of veterinary licensure (active and in good standing in another state or territory of the United States or Canada);

(c) submits a signed statement from a veterinarian licensed in this state who will be in attendance and will assume continuing care for the veterinary patient; and

(d) limits the service to an occasional case as defined in board rule.

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-18-104, MCA

REASON: The 2005 Montana Legislature enacted Chapter 126, Laws of 2005 (House Bill 203), an act generally revising laws relating to professional and occupational licensing and revising the licensing exemption for out-of-state veterinarians practicing in Montana. The bill was signed by the Governor on March 30, 2005, and became effective on July 1, 2005. In response to HB 203, the Board is proposing New Rule I to implement the legislation and allow out-of-state licensed veterinarians to attend a limited number of cases in Montana without requiring them to go through the time and expense of the full licensure process. The out-of-state

veterinarian must possess a current and unrestricted license, notify the Board in writing in advance of the services to be rendered, and identify a Montana-licensed veterinarian responsible for the follow-up care of the animal. The number of cases will be restricted to two cases per year. The Board concluded that this process will adequately protect the citizens of Montana from unscrupulous persons attempting to circumvent the law, while permitting access to out-of-state veterinarians with advanced training and expertise.

NEW RULE II FEE ABATEMENT (1) The Board of Veterinary Medicine adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The Board has determined there is reasonable necessity to adopt and incorporate by reference ARM 24.101.301 to allow the Board to authorize the Department to perform renewal licensure fee abatements as appropriate and when needed, without further vote or action by the Board. The Department recently adopted ARM 24.101.301 to implement a means for the prompt elimination of excess cash accumulations in the licensing programs operated by the Department.

Adoption and incorporation of ARM 24.101.301 will allow the Department to promptly eliminate excess cash balances of the Board that result from unexpectedly high licensing levels or other non-typical events. Abatement in such instances will allow the licensees who have paid fees into the Board's program to receive the temporary relief provided by abatement. Adoption of this abatement rule does not relieve the Board from its duty to use proper rulemaking procedures to adjust the Board's fee structure in the event of recurrent instances of cash balances in excess of the statutorily allowed amount.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdvet@mt.gov](mailto:dlibsdvet@mt.gov), and must be received no later than 5:00 p.m. February 10, 2006.

6. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at [www.vet.mt.gov](http://www.vet.mt.gov). The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties

in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The Board of Veterinary Medicine maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list must make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Veterinary Medicine administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@mt.gov), or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

9. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF VETERINARY MEDICINE  
JACK NEWMAN, DVM, PRESIDENT

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

Certified by the Secretary of State January 3, 2006